

SENATE BILL No. 424

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-8.

Synopsis: Disability benefits for public safety officers. Provides that a member of the 1925 police pension fund, 1937 firefighters' pension fund, 1953 police pension fund, or 1977 police officers' and firefighters' pension fund who develops cancer or a heart condition that is related to the police officer's or firefighter's duties is entitled to 75% of the salary of a first class patrolman or firefighter. Provides that the death of a police officer or firefighter from cancer or a heart condition related to the police officer's or firefighter's duties is a death in the line of duty.

Effective: July 1, 2003.

Craycraft

January 21, 2003, read first time and referred to Committee on Pensions and Labor.

C
o
p
y



First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

SENATE BILL No. 424

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-8-6-8, AS AMENDED BY P.L.185-2002,
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2003]: Sec. 8. (a) For a member who became disabled before
4 July 1, 2000, the 1925 fund shall be used to pay a pension in a sum
5 determined by the local board, but not exceeding:
6 (1) for a disability or disease occurring before July 1, 1982, fifty
7 percent (50%); and
8 (2) for a disability or disease occurring after June 30, 1982,
9 fifty-five percent (55%);
10 of the salary of a first class patrolman, to a member of the police
11 department who has suffered or contracted a mental or physical disease
12 or disability that renders the patrolman unable to perform the essential
13 functions of any duty in the police department, considering reasonable
14 accommodation to the extent required by the Americans with
15 Disabilities Act. If a member who becomes eligible for a disability
16 pension has more than twenty (20) years of service, the member is
17 entitled to receive a disability pension equal to the pension the member



C
o
p
y

1 would have received if the member had retired on the date of the
2 disability.

3 (b) Except as otherwise provided in this subsection, for a member
4 who becomes disabled after June 30, 2000, the 1925 fund shall be used
5 to pay a pension in a sum determined by the local board, but not
6 exceeding fifty-five percent (55%) of the salary of a first class
7 patrolman, to a member of the police department who has suffered or
8 contracted a mental or physical disease or disability:

9 (1) that is:

10 (A) the direct result of:

11 (i) a personal injury that occurs while the fund member is on
12 duty;

13 (ii) a personal injury that occurs while the fund member is
14 off duty and is responding to an offense or a reported
15 offense, in the case of a police officer; or

16 (iii) an occupational disease (as defined in IC 22-3-7-10),
17 including a duty related disease that is also included within
18 clause (B);

19 (B) a duty related disease (for purposes of this section, a "duty
20 related disease" means a disease arising out of the fund
21 member's employment; a disease is considered to arise out of
22 the fund member's employment if it is apparent to the rational
23 mind, upon consideration of all of the circumstances, that:

24 (i) there is a connection between the conditions under which
25 the fund member's duties are performed and the disease;

26 (ii) the disease can be seen to have followed as a natural
27 incident of the fund member's duties as a result of the
28 exposure occasioned by the nature of the fund member's
29 duties; and

30 (iii) the disease can be traced to the fund member's
31 employment as the proximate cause); or

32 (C) a disability presumed incurred in the line of duty under
33 IC 5-10-13; and

34 (2) that renders the member unable to perform the essential
35 functions of any duty in the police department, considering
36 reasonable accommodation to the extent required by the
37 Americans with Disabilities Act.

38 If a member who becomes eligible for a disability pension has more
39 than twenty (20) years of service, the member is entitled to receive a
40 disability pension equal to the pension the member would have
41 received if the member had retired on the date of the disability.

42 (c) Except as otherwise provided in this subsection, for a member

C
o
p
y



1 who becomes disabled after June 30, 2000, the 1925 fund shall be used
 2 to pay a pension in a sum determined by the local board, but not
 3 exceeding fifty-five percent (55%) of the salary of a first class
 4 patrolman, to a member of the police department who has suffered or
 5 contracted a mental or physical disease or disability:

6 (1) that is not described in subsection (b)(1); and

7 (2) that renders the member unable to perform the essential
 8 functions of any duty in the police department, considering
 9 reasonable accommodation to the extent required by the
 10 Americans with Disabilities Act.

11 If a member who becomes eligible for a disability pension has more
 12 than twenty (20) years of service, the member is entitled to receive a
 13 disability pension equal to the pension the member would have
 14 received if the member had retired on the date of the disability.

15 (d) The member must have retired from active service after a
 16 physical examination by the police surgeon or another surgeon
 17 appointed by the local board. The disability must be determined solely
 18 by the local board after the examination and a hearing conducted under
 19 IC 36-8-8-12.7. A member shall be retained on active duty with full pay
 20 until the member is retired by the local board because of the disability.

21 (e) After a member has been retired upon pension, the local board
 22 may, at any time, require the retired member to again be examined by
 23 the police surgeon or another surgeon appointed by the local board.
 24 After the examination the local board shall conduct a hearing under
 25 IC 36-8-8-12.7 to determine whether the disability still exists and
 26 whether the retired member should remain on the pension roll. The
 27 retired member shall be retained on the pension roll until reinstated in
 28 the service of the police department, except in case of resignation. If
 29 after the examination and hearing the retired member is found to have
 30 recovered from the member's disability and to be again fit for active
 31 duty, then the member shall be put on active duty with full pay and
 32 from that time is no longer entitled to payments from the 1925 fund. If
 33 the member fails or refuses to return to active duty, the member waives
 34 all rights to further benefits from the 1925 fund.

35 (f) If the salary of a first class patrolman is increased or decreased,
 36 the pension payable shall be proportionately increased or decreased.
 37 However, the monthly pension payable to a member or survivor may
 38 not be reduced below:

39 (1) the amount of the first full monthly pension received by that
 40 person; or

41 (2) fifty-five percent (55%) of the salary of a first class patrolman;
 42 whichever is greater.

C
o
p
y



(g) Time spent receiving disability benefits is considered active service for the purpose of determining retirement benefits until the member has a total of twenty (20) years of service.

(h) A fund member who is receiving disability benefits under this chapter shall be transferred from disability to regular retirement status when the member becomes fifty-five (55) years of age.

(i) Notwithstanding subsection (a), (b), or (c), for a member who becomes disabled after June 30, 2003, the 1925 fund shall be used to pay a pension, in the sum of seventy-five percent (75%) of the salary of a first class patrolman, to a member of the police department who has suffered a disabling cancer or heart condition that:

(1) develops and manifests itself while the member is in the service of the police department;

(2) may be caused by:

(A) exposure to heat, radiation, or a known or suspected carcinogen; or

(B) the physical stresses of the member's duties; and

(3) renders the member unable to perform the member's duties in the police department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

SECTION 2. IC 36-8-6-10.1, AS AMENDED BY P.L.185-2002, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10.1. (a) This section applies to a member who dies in the line of duty after August 31, 1982.

(b) The surviving spouse is entitled to a monthly benefit, during the spouse's lifetime, equal to the benefit to which the member would have been entitled on the date of the member's death, but no less than fifty percent (50%) of the monthly wage received by a first class patrolman. If the surviving spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(c) A payment shall also be made to each child of a deceased member less than eighteen (18) years of age, in an amount fixed by ordinance, but at least an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month to each child:

(1) until the child becomes eighteen (18) years of age;

(2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or

C
o
p
y



(3) during the entire period of the child's physical or mental disability;
whichever period is longer.

(d) The surviving children of the deceased member who are eligible to receive a benefit under subsection (c) may receive an additional benefit in an amount fixed by ordinance, but the total additional benefit under this subsection to all the member's children may not exceed a total of thirty percent (30%) of the monthly wage received by a first class patrolman. However, this limitation does not apply to the children of a member who are physically or mentally disabled.

(e) If a deceased member leaves no surviving spouse and no child who qualifies for benefits under subsection (c) but does leave a dependent parent or parents, an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month from the time of the member's death shall be paid to the dependent parent or parents during their dependency. When both parents survive, the total amount is still twenty percent (20%), to be paid to them jointly. In all cases of payment to a dependent relative of a deceased member, the board is the final judge of the question of necessity and dependency and of the amount to be paid. The board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the fund or other circumstances make this action necessary.

(f) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(g) For purposes of this section, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness caused by:

(1) incident, accident, or violence that results from any action that the member in the member's capacity as a police officer:

(1)(A) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or

(1)(B) performs in the course of controlling or reducing crime or enforcing the criminal law; or

(2) cancer or a heart condition that:

(A) develops and manifests itself while the member is in the service of the police department; and

(B) may be caused by:

(i) exposure to heat, radiation, or a known or suspected

C
O
P
Y



1 **carcinogen; or**

2 **(ii) the physical stresses of the member's duties.**

3 The term includes a death presumed incurred in the line of duty under
4 IC 5-10-13.

5 SECTION 3. IC 36-8-7-11, AS AMENDED BY P.L.185-2002,
6 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2003]: Sec. 11. (a) Benefits paid under this section are subject
8 to section 2.5 of this chapter.

9 (b) If a member of the fire department becomes seventy (70) years
10 of age or is found upon examination by a medical officer to be
11 physically or mentally disabled and unable to perform the essential
12 functions of the job, considering reasonable accommodation to the
13 extent required by the Americans with Disabilities Act, so as to make
14 necessary the person's retirement from all service with the department,
15 the local board shall retire the person.

16 (c) The local board may retire a person for disability only after a
17 hearing conducted under IC 36-8-8-12.7.

18 (d) If after the hearing the local board determines that a person who
19 became disabled before July 1, 2000, is disabled and unable to perform
20 the essential functions of the job, considering reasonable
21 accommodation to the extent required by the Americans with
22 Disabilities Act, the local board shall then authorize the monthly
23 payment to the person from the 1937 fund of an amount equal to
24 fifty-five percent (55%) of the salary of a fully paid first class
25 firefighter in the unit at the time of the payment of the pension. All
26 physical and mental examinations of members of the fire department
27 shall be made on order of the local board by a medical officer
28 designated by the local board.

29 (e) If after the hearing under this section and a recommendation
30 under section 12.5 of this chapter, the 1977 fund advisory committee
31 determines that a person who becomes disabled after June 30, 2000:

32 (1) has a disability that is:

33 (A) the direct result of:

34 (i) a personal injury that occurs while the fund member is on
35 duty;

36 (ii) a personal injury that occurs while the fund member is
37 responding to an emergency or reported emergency for
38 which the fund member is trained; or

39 (iii) an occupational disease (as defined in IC 22-3-7-10),
40 including a duty related disease that is also included within
41 clause (B);

42 (B) a duty related disease (for purposes of this section, a "duty

C
o
p
y



related disease" means a disease arising out of the fund member's employment; a disease is considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

(i) there is a connection between the conditions under which the fund member's duties are performed and the disease;

(ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and

(iii) the disease can be traced to the fund member's employment as the proximate cause); or

(C) a disability presumed incurred in the line of duty under IC 5-10-13; and

(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act;

the local board shall then authorize the monthly payment to the person from the 1937 fund of an amount equal to fifty-five percent (55%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension. All physical and mental examinations of members of the fire department shall be made on order of the local board by a medical officer designated by the local board.

(f) If after the hearing under this section and a recommendation under section 12.5 of this chapter, the 1977 fund advisory committee determines that a person who becomes disabled after June 30, 2000:

(1) has a disability that is not a disability described in subsection (e)(1); and

(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act;

the local board shall then authorize the monthly payment to the person from the 1937 fund of an amount equal to fifty-five percent (55%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension. All physical and mental examinations of members of the fire department shall be made on order of the local board by a medical officer designated by the local board.

(g) Notwithstanding subsections (d), (e), and (f), if, after a hearing under this section, the local board determines that a person who becomes disabled after June 30, 2003, has suffered a disabling cancer or heart condition that:

(1) develops and manifests itself while the member is in the

C
o
p
y



1 service of the fire department;

2 (2) may be caused by:

3 (A) exposure to heat, radiation, or a known or suspected
4 carcinogen; or

5 (B) the physical stresses of the member's duties; and

6 (3) renders the member unable to perform the member's
7 duties in the fire department, considering reasonable
8 accommodation to the extent required by the Americans with
9 Disabilities Act;

10 the local board shall authorize the monthly payment to the person
11 from the 1937 fund of an amount equal to seventy-five percent
12 (75%) of the salary of a fully paid first class firefighter in the unit
13 at the time of the payment of the pension. All physical and mental
14 examinations of members of the fire department shall be made on
15 order of the local board by a medical officer designated by the local
16 board.

17 SECTION 4. IC 36-8-7-12.4, AS AMENDED BY P.L.185-2002,
18 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2003]: Sec. 12.4. (a) This section applies to an active member
20 who dies in the line of duty after August 31, 1982.

21 (b) If a member dies in the line of duty after August 31, 1982, the
22 surviving spouse is entitled to a monthly benefit, during the spouse's
23 lifetime, equal to the benefit to which the member would have been
24 entitled on the date of the member's death, but not less than fifty
25 percent (50%) of the monthly wage received by a fully paid first class
26 firefighter. If the spouse remarried before September 1, 1983, and
27 benefits ceased on the date of remarriage, the benefits for the surviving
28 spouse shall be reinstated on July 1, 1997, and continue during the life
29 of the surviving spouse. If the pension of the surviving spouse of a
30 deceased member has ceased by virtue of the spouse's remarriage, and
31 if the person to whom the spouse has remarried was a retired member
32 of the fire department who was also entitled to a pension, then upon the
33 death of the member to whom the spouse had remarried, the spouse is
34 entitled to receive a pension as the surviving spouse of a deceased
35 member as though the spouse had not been remarried.

36 (c) If a member dies while in active service, the member's children
37 who are:

38 (1) less than eighteen (18) years of age; or

39 (2) less than twenty-three (23) years of age if the children are
40 enrolled in and regularly attending a secondary school or are
41 full-time students at an accredited college or university;

42 are each entitled to receive an amount fixed by ordinance but not less

C
o
p
y



than twenty percent (20%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension.

(d) The surviving children of the deceased member who are eligible to receive a benefit under subsection (c) may receive an additional benefit in an amount fixed by ordinance, but the total additional benefit under this subsection to all the member's children may not exceed a total of thirty percent (30%) of the monthly wage received by a first class firefighter. However, this limitation does not apply to the children of a member who are physically or mentally disabled.

(e) If a deceased member of the fire department leaves no surviving spouse or children but leaves a dependent parent, and upon satisfactory proof that the parent was wholly dependent upon the deceased member, the local board shall authorize the monthly payment to the parent from the 1937 fund. Each parent of a deceased member who was eligible for a pension under this subsection is entitled to receive jointly an amount equal to thirty percent (30%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension.

(f) For purposes of this section, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness caused by incident, accident, or violence that results from:

(1) any action that the member, in the member's capacity as a firefighter:

(+) (A) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or

(2) (B) performs while on the scene of an emergency run (including false alarms) or on the way to or from the scene; or

(2) cancer or a heart condition that:

(A) develops and manifests itself while the member is in the service of the fire department; and

(B) may be caused by:

(i) exposure to heat, radiation, or a known or suspected carcinogen; or

(ii) the physical stresses of the member's duties.

The term includes a death presumed incurred in the line of duty under IC 5-10-13.

(g) If the local board finds upon the submission of satisfactory proof that a child eighteen (18) years of age or older is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under subsection (c)(2), the child is entitled to receive the same amount as is paid to the surviving spouse of a deceased firefighter, as long as the mental or physical incapacity continues. A sum paid for the benefit of a child or children shall be paid to the remaining parent, if alive, as

C
o
p
y



1 long as the child or children reside with and are supported by the
 2 parent. If the parent dies, the sum shall be paid to the lawful guardian
 3 of the child or children.

4 (h) The monthly pension payable to a survivor may not be reduced
 5 below the amount of the first full monthly pension received by that
 6 person.

7 (i) A benefit payable under this section shall be paid in not less than
 8 twelve (12) monthly installments.

9 SECTION 5. IC 36-8-7.5-13, AS AMENDED BY P.L.185-2002,
 10 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2003]: Sec. 13. (a) For a member who becomes disabled
 12 before July 1, 2000, the 1953 fund shall be used to pay a pension in an
 13 annual sum equal to:

14 (1) fifty percent (50%) for a disease or disability occurring before
 15 July 1, 1991; and

16 (2) fifty-five percent (55%) for a disease or disability occurring
 17 after June 30, 1991;

18 of the salary of a first class patrolman in the police department,
 19 computed and payable as prescribed by section 12(b) of this chapter,
 20 to an active member of the police department who has been in active
 21 service for more than one (1) year and who has suffered or contracted
 22 a mental or physical disease or disability that render the member
 23 permanently unfit for active duty in the police department, or to an
 24 active member of the police department who has been in active service
 25 for less than one (1) year who has suffered or received personal injury
 26 from violent external causes while in the actual discharge of the
 27 member's duties as a police officer. The pensions provided for in this
 28 subsection shall be paid only so long as the member of the police
 29 department remains unfit for active duty in the police department.

30 (b) For a member who becomes disabled after June 30, 2000, the
 31 1953 fund shall be used to pay a pension in an annual sum equal to
 32 fifty-five percent (55%) of the salary of a first class patrolman in the
 33 police department, computed on an annual basis and payable in twelve
 34 (12) equal monthly installments, to an active member of the police
 35 department who:

36 (1) has suffered or incurred a disability that renders the member
 37 permanently unfit for active duty in the police department and
 38 that is:

39 (A) the direct result of:

40 (i) a personal injury that occurs while the fund member is on
 41 duty;

42 (ii) a personal injury that occurs while the fund member is

C
o
p
y



off duty and is responding to an offense or a reported offense; or

(iii) an occupational disease (as defined in IC 22-3-7-10), including a duty related disease that is also included within clause (B);

(B) a duty related disease (for purposes of this section, a "duty related disease" means a disease arising out of the fund member's employment; a disease is considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

(i) there is a connection between the conditions under which the fund member's duties are performed and the disease;

(ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and

(iii) the disease can be traced to the fund member's employment as the proximate cause); or

(C) a disability presumed incurred in the line of duty under IC 5-10-13; and

(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

The pensions provided for in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(c) For a member who becomes disabled after June 30, 2000, the 1953 fund shall be used to pay a pension in an annual sum equal to fifty-five percent (55%) of the salary of a first class patrolman in the police department, computed on an annual basis and payable in twelve (12) equal monthly installments, to an active member of the police department who has been in active service for at least one (1) year and:

(1) has suffered or incurred a disability that:

(A) renders the member permanently unfit for active duty in the police department; and

(B) is not described in subsection (b)(1); and

(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by

C
o
p
y



the Americans with Disabilities Act.

The pension provided in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(d) For a member who became disabled before July 1, 2000, the 1953 fund shall be used to pay temporary benefits in an annual sum equal to thirty percent (30%) of the salary of a first class patrolman in the police department, computed and payable as prescribed by section 12(a) of this chapter, to an active member of the police department who has been in active service for more than one (1) year and who has suffered any physical or mental disability that renders the member temporarily or permanently unable to perform ~~his~~ **the** duties as a member of the police department, or to an active member of the police department who has been in active service for less than one (1) year and who has suffered or received personal injury from violent external causes while in the actual discharge of the member's duties as a police officer, until the time the member is physically and mentally able to return to active service on the police department.

(e) For a member who becomes disabled after June 30, 2000, the 1953 fund shall be used to pay a pension in an annual sum equal to thirty percent (30%) of the salary of a first class patrolman in the police department, computed on an annual basis and payable in twelve (12) equal monthly installments, to an active member of the police department who:

(1) suffers or incurs a disability that renders the member temporarily unfit for active duty in the police department and that is:

(A) the direct result of:

(i) a personal injury that occurs while the fund member is on duty;

(ii) a personal injury that occurs while the fund member is off duty and is responding to an offense or a reported offense, in the case of a police officer; or

(iii) an occupational disease (as defined in IC 22-3-7-10), including a duty related disease that is also included within clause (B);

(B) a duty related disease (for purposes of this section, a "duty related disease" means a disease arising out of the fund

C
o
p
y



member's employment; a disease is considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

(i) there is a connection between the conditions under which the fund member's duties are performed and the disease;

(ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and

(iii) the disease can be traced to the fund member's employment as the proximate cause); or

(C) a disability presumed incurred in the line of duty under IC 5-10-13; and

(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

The pension provided in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(f) For a member who becomes disabled after June 30, 2000, the 1953 fund shall be used to pay temporary benefits in an annual sum equal to thirty percent (30%) of the salary of a first class patrolman in the police department, computed on an annual basis and payable in twelve (12) equal monthly installments, to an active member of the police department:

(1) who has been in active service for at least one (1) year;

(2) suffers or incurs a disability that:

(A) renders the member temporarily unfit for active duty in the police department; and

(B) is not described in subsection (e)(1); and

(3) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

The pension provided for in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a

C
o
p
y



1 member or survivor may not be reduced below the amount of the first
2 full monthly pension received by that person.

3 (g) If an application is made by an active member of the police
4 department because of physical or mental disability for temporary
5 benefits as provided in subsection (d), (e), or (f), the benefit is not
6 payable until the local board determines after a hearing conducted
7 under IC 36-8-8-12.7 that the member is unfit for active duty on the
8 police department, considering reasonable accommodation to the
9 extent required by the Americans with Disabilities Act. Before the
10 hearing, a physician to be appointed by the local board shall examine
11 the member and certify in writing whether in the physician's opinion
12 the member is unfit, physically or mentally, for active duty in the police
13 department. After the pension or benefit has been granted by the local
14 board, the payment commences with the original date of the injury or
15 illness causing the disability.

16 (h) A member who has been granted a disability benefit under this
17 section and who fails or refuses to submit to a physical examination at
18 any time by the local board physician has no right in the future to
19 receive the disability benefit, and any benefit that has been granted
20 shall be immediately canceled by the local board.

21 (i) The local board may, from time to time, require a member of the
22 police department who is receiving at any time disability benefits or
23 pensions as provided in this section to be examined by the physician
24 appointed by the local board. After the examination, the local board
25 shall conduct a hearing under IC 36-8-8-12.7 to determine whether the
26 disability still exists and whether the member should continue to
27 receive the pension or benefit. If after the examination and hearing the
28 member is found to have recovered from the member's disability and
29 is fit for active duty on the police department, then upon written notice
30 to the member by the local board, the member shall be reinstated in
31 active service, the safety board shall be informed of the action of the
32 local board, and from that time the member is no longer entitled to
33 payments from the 1953 fund. If the member fails or refuses to return
34 to active duty after ordered by the local board, the member ceases to be
35 a member of the 1953 fund and waives all rights to any further
36 pensions or benefits provided by the 1953 fund.

37 (j) Notwithstanding any other provision of this chapter, no disability
38 benefit may be paid for any disability based upon or caused by any
39 mental or physical condition that a member had at the time the member
40 entered or reentered the member's active service in the police
41 department.

42 (k) If a member who is receiving disability benefits under

C
o
p
y



subsection (a), (b), or (c) for a disease or disability occurring after June 30, 1991, is transferred from disability to regular retirement status, the member's monthly pension may not be reduced below fifty-five percent (55%) of the salary of a first class patrolman at the time of payment of the pension.

(l) To the extent required by the Americans with Disabilities Act, the transcripts, reports, records, and other material compiled to determine the existence of a disability shall be:

- (1) kept in separate medical files for each member; and
- (2) treated as confidential medical records.

(m) A fund member who is receiving disability benefits under this chapter shall be transferred from disability to regular retirement status when the member becomes fifty-five (55) years of age.

(n) Notwithstanding subsections (a) through (f), for a member who becomes disabled after June 30, 2003, the 1953 fund shall be used to pay a pension in the sum of seventy-five percent (75%) of the salary of a first class patrolman to a member of the police department who has suffered a disabling cancer or heart condition that:

- (1) develops and manifests itself while the member is in the service of the police department;**
- (2) may be caused by:**
 - (A) exposure to heat, radiation, or a known or suspected carcinogen; or**
 - (B) the physical stresses of the member's duties; and**
- (3) renders the member unable to perform the member's duties in the police department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.**

The pension provided for in this subsection shall be paid only as long as the member of the police department remains unfit for active duty in the police department. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

SECTION 6. IC 36-8-7.5-14.1, AS AMENDED BY P.L.185-2002, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14.1. (a) This section applies to an active member who dies in the line of duty after August 31, 1982.

(b) If a member dies in the line of duty after August 31, 1982, the

C
o
p
y



1 surviving spouse is entitled to a monthly benefit, during the spouse's
 2 lifetime, equal to the benefit to which the member would have been
 3 entitled on the date of the member's death, but not less than fifty
 4 percent (50%) of the monthly wage received by a first class patrolman.
 5 If the spouse remarried before September 1, 1983, benefits ceased on
 6 the date of remarriage. However, if a member of the police department
 7 dies in the line of duty after August 31, 1982, and the member's
 8 surviving spouse remarried before September 1, 1983, the benefits for
 9 the surviving spouse shall be reinstated on July 1, 1995, and continue
 10 during the life of the surviving spouse.

11 (c) The 1953 fund shall also be used to pay an annuity equal to
 12 twenty percent (20%) of the salary of a first class patrolman on the
 13 police department, computed as provided in section 12(b) of this
 14 chapter and payable in monthly installments, to each dependent child
 15 of a member of the fund who dies from any cause while in the actual
 16 discharge of duties as a police officer. The pension to each child
 17 continues:

- 18 (1) until the child becomes eighteen (18) years of age;
- 19 (2) until the child becomes twenty-three (23) years of age if the
- 20 child is enrolled in and regularly attending a secondary school or
- 21 is a full-time student at an accredited college or university; or
- 22 (3) during the entire period of the child's physical or mental
- 23 disability;

24 whichever period is longest. However, the pension to the child ceases
 25 if the child marries or is legally adopted by any person.

26 (d) The surviving children of the deceased member who are eligible
 27 to receive a benefit under subsection (c) may receive an additional
 28 benefit in an amount fixed by ordinance, but the total benefit to all the
 29 member's children under this subsection may not exceed a total of
 30 thirty percent (30%) of the monthly wage received by a first class
 31 patrolman. However, this limitation does not apply to the children of
 32 a member who are physically or mentally disabled.

33 (e) If a deceased member leaves no surviving spouse and no child
 34 who qualifies for a benefit under subsection (c) but does leave a
 35 dependent parent or parents, the 1953 fund shall be used to pay an
 36 annuity not greater than a sum equal to twenty percent (20%) of the
 37 salary of a first class patrolman on the police department, computed
 38 and payable as provided in section 12(b) of this chapter, payable
 39 monthly to the dependent parent or parents of a member of the police
 40 department who dies from any cause while in the actual discharge of
 41 duties as a police officer. The annuity continues for the remainder of
 42 the life or lives of the parent or parents as long as either or both fail to

C
o
p
y



1 have sufficient other income for their proper care, maintenance, and
2 support.

3 (f) In all cases of payment to a dependent relative of a deceased
4 member, the local board is the final judge of the question of necessity
5 and dependency and of the amount within the stated limits to be paid.
6 The local board may also reduce or terminate temporarily or
7 permanently a payment to a dependent relative of a deceased member
8 when it determines that the condition of the 1953 fund or other
9 circumstances make this action necessary.

10 (g) If the salary of a first class patrolman is increased or decreased,
11 the pension payable under this section shall be proportionately
12 increased or decreased. However, the monthly pension payable to a
13 member or survivor may not be reduced below the amount of the first
14 full monthly pension received by that person.

15 (h) For purposes of this section, "dies in the line of duty" means
16 death that occurs as a direct result of personal injury or illness caused
17 by incident, accident, or violence that results from:

18 (1) any action that the member, in the member's capacity as a
19 police officer:

20 (1) (A) is obligated or authorized by rule, regulation, condition
21 of employment or service, or law to perform; or

22 (2) (B) performs in the course of controlling or reducing crime
23 or enforcing the criminal law; or

24 (2) cancer or a heart condition that:

25 (A) develops and manifests itself while the member is in the
26 service of the police department; and

27 (B) may be caused by:

28 (i) exposure to heat, radiation, or a known or suspected
29 carcinogen; or

30 (ii) the physical stresses of the member's duties.

31 The term includes a death presumed incurred in the line of duty under
32 IC 5-10-13.

33 SECTION 7. IC 36-8-8-12.5, AS AMENDED BY P.L.185-2002,
34 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
35 JULY 1, 2003]: Sec. 12.5. (a) This section applies only to a fund
36 member who:

37 (1) is hired for the first time after December 31, 1989;

38 (2) chooses coverage by this section and section 13.5 of this
39 chapter under section 12.4 of this chapter; or

40 (3) is described in section 12.3(c)(2) of this chapter.

41 (b) At the same hearing where the determination of whether the
42 fund member has a covered impairment is made, the local board shall

C
o
p
y



determine the following:

(1) Whether the fund member has a Class 1 impairment. A Class 1 impairment is a covered impairment that is the direct result of one (1) or more of the following:

(A) A personal injury that occurs while the fund member is on duty.

(B) A personal injury that occurs while the fund member is off duty and is responding to:

(i) an offense or a reported offense, in the case of a police officer; or

(ii) an emergency or reported emergency for which the fund member is trained, in the case of a firefighter.

(C) An occupational disease (as defined in IC 22-3-7-10). A covered impairment that is included within this clause and subdivision (2) shall be considered a Class 1 impairment.

(D) A health condition caused by an exposure risk disease that results in a presumption of disability or death incurred in the line of duty under IC 5-10-13.

(E) Cancer or a heart condition that:

(i) develops and manifests itself while the fund member is in the service of the police or fire department; and

(ii) may be caused by exposure to heat, radiation, or a known or suspected carcinogen or the physical stresses of the fund member's duties.

(2) Whether the fund member has a Class 2 impairment. A Class 2 impairment is a covered impairment that is a duty related disease. A duty related disease means a disease arising out of the fund member's employment. A disease shall be considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

(A) there is a connection between the conditions under which the fund member's duties are performed and the disease;

(B) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and

(C) the disease can be traced to the fund member's employment as the proximate cause.

(3) Whether the fund member has a Class 3 impairment. A Class 3 impairment is a covered impairment that is not a Class 1 impairment or a Class 2 impairment.

SECTION 8. IC 36-8-8-13.5 IS AMENDED TO READ AS



C
O
P
Y

1 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13.5. (a) This section
2 applies only to a fund member who:

- 3 (1) is hired for the first time after December 31, 1989;
- 4 (2) chooses coverage by this section and section 12.5 of this
5 chapter under section 12.4 of this chapter; or
- 6 (3) is described in section 12.3(c)(2) of this chapter.

7 (b) A fund member who is determined to have a Class 1 impairment
8 and for whom it is determined that there is no suitable and available
9 work within the fund member's department, considering reasonable
10 accommodation to the extent required by the Americans with
11 Disabilities Act, is entitled to a monthly base benefit equal to forty-five
12 percent (45%) of the monthly salary of a first class patrolman or
13 firefighter in the year of the local board's determination of impairment.

14 **However, a fund member who is determined to have a Class 1**
15 **impairment under section 12.5(b)(1)(E) of this chapter is entitled**
16 **to receive a monthly base benefit in the amount of seventy-five**
17 **percent (75%) of the monthly salary of a first class patrolman or**
18 **firefighter.**

19 (c) A fund member who is determined to have a Class 2 impairment
20 and for whom it is determined that there is no suitable and available
21 work within the fund member's department, considering reasonable
22 accommodation to the extent required by the Americans with
23 Disabilities Act, is entitled to a monthly base benefit equal to
24 twenty-two percent (22%) of the monthly salary of a first class
25 patrolman or firefighter in the year of the local board's determination
26 of impairment plus one-half percent (0.5%) of that salary for each year
27 of service, up to a maximum of thirty (30) years of service.

28 (d) For applicants hired before March 2, 1992, a fund member who
29 is determined to have a Class 3 impairment and for whom it is
30 determined that there is no suitable and available work within the fund
31 member's department, considering reasonable accommodation to the
32 extent required by the Americans with Disabilities Act, is entitled to a
33 monthly base benefit equal to the product of the member's years of
34 service (not to exceed thirty (30) years of service) multiplied by one
35 percent (1%) of the monthly salary of a first class patrolman or
36 firefighter in the year of the local board's determination of impairment.

37 (e) For applicants hired after March 1, 1992, or described in section
38 12.3(c)(2) of this chapter, a fund member who is determined to have a
39 Class 3 impairment and for whom it is determined that there is no
40 suitable and available work within the fund member's department,
41 considering reasonable accommodation to the extent required by the
42 Americans with Disabilities Act, is entitled to the following benefits

C
o
p
y



instead of benefits provided under subsection (d):

(1) If the fund member did not have a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund, the fund member is entitled to a monthly base benefit equal to the product of the member's years of service, not to exceed thirty (30) years of service, multiplied by one percent (1%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment.

(2) Except as provided in subdivision (5), a fund member is entitled to receive the benefits set forth in subdivision (1) if:

(A) the fund member had a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund;

(B) the fund member has a Class 3 impairment that is not related in any manner to the Class 3 excludable condition described in clause (A); and

(C) the Class 3 impairment described in clause (B) occurs after the fund member has completed four (4) years of service with the employer after the date the fund member entered or reentered the fund.

(3) Except as provided in subdivision (5), a fund member is not entitled to a monthly base benefit for a Class 3 impairment if:

(A) the fund member had a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund; and

(B) the Class 3 impairment occurs before the fund member has completed four (4) years of service with the employer after the date the fund member entered or reentered the fund.

(4) A fund member is not entitled to a monthly base benefit for a Class 3 impairment if:

(A) the fund member had a Class 3 excludable condition under section 13.6 of this chapter at the time the fund member entered or reentered the fund; and

(B) the Class 3 impairment is related in any manner to the Class 3 excludable condition.

(5) If, during the first four (4) years of service with the employer:

(A) a fund member with a Class 3 excludable condition is determined to have a Class 3 impairment; and

(B) the Class 3 impairment is attributable to an accidental injury that is not related in any manner to the fund member's Class 3 excludable condition;

C
o
p
y



the member is entitled to receive the benefits provided in subdivision (1) with respect to the accidental injury. For purposes of this subdivision, the local board shall make the initial determination of whether an impairment is attributable to an accidental injury. The local board shall forward the initial determination to the director of the PERF board for a final determination by the PERF board or the PERF board's designee.

(f) If a fund member is entitled to a monthly base benefit under subsection (b), (c), (d), or (e), the fund member is also entitled to a monthly amount that is no less than ten percent (10%) and no greater than forty-five percent (45%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment. The additional monthly amount shall be determined by the PERF medical authority based on the degree of impairment.

(g) Benefits for a Class 1 impairment are payable until the fund member becomes fifty-two (52) years of age. Benefits for a Class 2 and a Class 3 impairment are payable:

(1) for a period equal to the years of service of the member, if the member's total disability benefit is less than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment and the member has fewer than four (4) years of service; or

(2) until the member becomes fifty-two (52) years of age if the member's benefit is:

(A) equal to or greater than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment; or

(B) less than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment if the member has at least four (4) years of service.

(h) Upon becoming fifty-two (52) years of age, a fund member with a Class 1 or Class 2 impairment is entitled to receive the retirement benefit payable to a fund member with:

(1) twenty (20) years of service; or

(2) the total years of service and salary, as of the year the member becomes fifty-two (52) years of age, that the fund member would have earned if the fund member had remained in active service until becoming fifty-two (52) years of age;

whichever is greater.

(i) Upon becoming fifty-two (52) years of age, a fund member who is receiving or has received a Class 3 impairment benefit that is:

C
o
p
y



(1) equal to or greater than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment; or

(2) less than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment if the member has at least four (4) years of service;

is entitled to receive the retirement benefit payable to a fund member with twenty (20) years of service.

(j) Notwithstanding section 12.3 of this chapter and any other provision of this section, a member who:

(1) has had a covered impairment;

(2) recovers and returns to active service with the department; and

(3) within two (2) years after returning to active service has an impairment that, except for section 12.3(b)(3) of this chapter, would be a covered impairment;

is entitled to the benefit under this subsection if the impairment described in subdivision (3) results from the same condition or conditions (without an intervening circumstance) that caused the covered impairment described in subdivision (1). The member is entitled to receive the monthly disability benefit amount paid to the member at the time of the member's return to active service plus any adjustments under section 15 of this chapter that would have been applicable during the member's period of reemployment.

SECTION 9. IC 36-8-8-14.1, AS AMENDED BY P.L.185-2002, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14.1. (a) Benefits paid under this section are subject to section 2.5 of this chapter.

(b) This section applies to an active member who dies in the line of duty after August 31, 1982.

(c) If a fund member dies in the line of duty after August 31, 1982, the member's surviving spouse is entitled to a monthly benefit during the spouse's lifetime, equal to the benefit to which the member would have been entitled on the date of the member's death, but not less than the benefit payable to a member with twenty (20) years service at fifty-two (52) years of age. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(d) If a fund member dies in the line of duty, each of the member's surviving children is entitled to a monthly benefit equal to twenty percent (20%) of the fund member's monthly benefit:

C
o
p
y



- (1) until the child reaches eighteen (18) years of age; or
- (2) until the child reaches twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university;

whichever period is longer. However, if the board finds upon the submission of satisfactory proof that a child who is at least eighteen (18) years of age is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under subdivision (2), the child is entitled to receive an amount each month that is equal to the greater of thirty percent (30%) of the monthly pay of a first class patrolman or first class firefighter or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death as long as the mental or physical incapacity of the child continues. Benefits paid for a child shall be paid to the surviving parent as long as the child resides with and is supported by the surviving parent. If the surviving parent dies, the benefits shall be paid to the legal guardian of the child.

(e) If there is no surviving eligible child or spouse, and there is proof satisfactory to the local board, subject to review in the manner specified in section 13.1(b) of this chapter, that the parent was wholly dependent on the fund member, the member's surviving parent is entitled, or both surviving parents if qualified are entitled jointly, to receive fifty percent (50%) of the fund member's monthly benefit during the parent's or parents' lifetime.

(f) If the fund member did not have at least twenty (20) years of service or was not at least fifty-two (52) years old, the benefit is computed as if the member:

- (1) did have twenty (20) years of service; and
- (2) was fifty-two (52) years of age.

(g) For purposes of this section, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness caused by incident, accident, or violence that results from:

- (1) any action that the member, in the member's capacity as a police officer:

- (A) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or
- (B) performs in the course of controlling or reducing crime or enforcing the criminal law; or

- (2) any action that the member, in the member's capacity as a firefighter:

- (A) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or

C
o
p
y



- 1 (B) performs while on the scene of an emergency run
2 (including false alarms) or on the way to or from the scene; **or**
3 **(3) cancer or a heart condition that:**
4 **(A) develops and manifests itself while the member is in the**
5 **service of the member's department; and**
6 **(B) may be caused by:**
7 **(i) exposure to heat, radiation, or a known or suspected**
8 **carcinogen; or**
9 **(ii) the physical stresses of the member's duties.**
10 The term includes a death presumed incurred in the line of duty under
11 IC 5-10-13.

C
o
p
y

